

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DEMETRIUS JOHNSON,

*Plaintiff,*

v.

REYNALDO GUEVARA, JOANN  
HALVORSEN as PERSONAL  
REPRESENTATIVE to the ESTATE of  
ERNEST HALVORSEN, DARRYL  
DALEY, WILLIAM ERICKSON, JOHN  
HEALY, and the CITY OF CHICAGO

*Defendants.*

Case No. 1:20-cv-04156

Judge Sara L. Ellis

**DEFENDANT GUEVARA’S MOTION FOR AN EXTENSION OF  
TIME TO FILE JOINT STATEMENT OF MATERIAL FACTS IN CONNECTION  
WITH PLAINTIFF’S PROSPECTIVE MOTION TO DISMISS AND THE BRIEFING  
SCHEDULE ON SAID MOTION**

Defendant Reynaldo Guevara, by his attorneys, respectfully requests this Honorable Court grant an extension of time to file the Joint Statement of Material Facts Plaintiff plans to file in support of his Motion for Summary Judgment. In support, Defendant Guevara states:

1. On October 26, 2022, the parties submitted a joint status report. Docket (“Dkt”) at 172. Included in this status report were proposed briefing schedules for Plaintiff’s prospective motion for summary judgment against Defendant Guevara on Plaintiff’s *Brady* claim. *Id.* Plaintiff proposed to file the motion November 30, 2022, with Defendant Guevara’s response due December 30, 2022; and Plaintiff’s reply to be filed on January 12, 2023. *Id.* Defendant Guevara proposed Plaintiff file the motion December 30, 2022, with his response due February 28, 2023, and Plaintiff’s reply on March 14, 2023. *Id.*

2. On November 1, 2022, this Court accepted Plaintiff's proposed briefing schedule for his motion for summary judgment (Dkt. 175). Defendant Guevara is thus required by this Court's standing order to reach accord with Plaintiff so that a joint statement of undisputed material facts ("JSOF") is filed by November 30, 2022.

3. On November 14, 2022, Plaintiff submitted a proposed JSOF to Defendant Guevara, and counsel for Defendant Guevara has been diligently working on a response. Although Plaintiff previously sought leave to file his motion for summary judgment on his *Brady* claim, and in July 2022 had provided Defendant Guevara a proposed JSOF (the "July JSOF"), Plaintiff's recently submitted JSOP is materially different than the July JSOF.

4. Defendant Guevara seeks additional time to submit a proposed JSOF for the following reasons:

(a) The JSOP submitted by Plaintiff on November 14, 2022, adds new facts and evidence that were not fully developed or disclosed in July 2022, including facts based on declarations of two witnesses (McFadden and Agee) that Plaintiff produced on October 19 and 20. Defendants promptly personally served subpoenas and noticed depositions of the declarant witnesses for November 21 and 22, 2022. Both witnesses confirmed their availability for the noticed dates, but both depositions had to be rescheduled due to Plaintiff's counsel being unavailable for either date. Their depositions are currently scheduled to proceed December 5 and 6, after the current filing deadline for the JSOF. Defendant Guevara should have the opportunity to take these depositions before addressing Plaintiff's proposed JSOF, which but for Plaintiff's counsel would have occurred by now.

- (b) The new facts from witnesses Agee and McFadden's declarations are not the only changes to Plaintiff's July JSOF. The July JSOF had approximately 53 statements of fact, whereas now Plaintiff's JSOF has 62. But it is not merely the number of statements in Plaintiff's revised JSOF that is different. Many of Plaintiff's facts in the July JSOP have been changed or removed from his November JSOP.
- (c) The undersigned, lead counsel for Defendant Guevara, has been and is presently preparing to commence a trial on November 29, 2022 before the Honorable Jeffrey Cole in United States v. Topouzian, Case No. 20-cr-00721. Trial of this matter is expected to continue through December 2. The time required to prepare and present this trial has and will continue to preclude the undersigned from devoting the time and attention to the motion for summary judgment.
- (d) It is also important to note that, while Defendants began reviewing and revising the July SOF, there was little to no conferring with Plaintiff's counsel about Defendants' concerns with the draft. The same is true now. Defendant Guevara sent Plaintiff his response to the JSOF on November 21, as previously agreed by the parties. As the attached correspondence shows, Plaintiff expects Guevara to submit a "final" version before the parties have any sort of meeting.
- (e) Plaintiff's proposed JSOF also does not contemplate the interests of the other Defendants. While the motion is directed solely at Defendant Guevara, there are proposed factual assertions that implicate the City and Defendant Daley.
- (f) Finally, Plaintiff is in no way prejudiced by this short extension of time. In the Court's order of November 1, 2022, fact discovery is set to close on December 16, 2022. (Dkt. at 175) The parties will then begin expert discovery, followed by

dispositive motions for parties not included in the present motion. There is simply no pressing emergency compelling that this motion be filed by November 30, 2022.

3. Defendant Guevara is not asking the Court to move the date for filing Plaintiff's motion for summary judgement against him to the same schedule as that of the other parties, nor is he asking the Court to reconsider not accepting the schedule he proposed in October. Rather, Defendant Guevara just asks the Court to allow him the ability to fully investigate the representations of certain fact witnesses that were previously unknown to Defendants. This short extension will give the parties an opportunity to develop a Joint Statement of Facts that is both accurate and fair.

4. Defendant Guevara therefore requests the Court grant an extension of time to file the JSOF to December 21, 2022. His response to Plaintiff's Motion for Summary Judgment will then be filed on January 20, 2023, and Plaintiff's reply on February 10, 2023.

5. This request is not made with any intent to delay, but rather to afford Defendant Guevara the necessary time to adequately respond to Plaintiff's dispositive motion. No parties will be prejudiced if a short extension is granted.

6. Plaintiff's counsel was consulted and objects to this Motion.

WHEREFORE, for the reasons detailed above, Defendant Guevara requests the briefing schedule for Plaintiff's Motion for Summary Judgment be modified whereby (a) the date for filing the JSOF together Plaintiff's motion and memorandum in support shall now be December 21, 2022, (b) Defendant Guevara shall file his response January 20, 2022; and (c) Plaintiff to file his reply February 10, 2023.

Respectfully Submitted:

DEFENDANT REYNALDO GUEVARA

/s/ Thomas M. Leinenweber

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